

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.

ROSANNE McHENRY,  
  
Defendant.

CASE NO. 5:24-po-00158 CDB  
  
ORDER ON DEFENDANT'S REQUEST  
FOR WAIVER OF APPEARANCE  
PURSUANT TO FED. R CRIM. P. 43  
  
(Doc. 5)

Pending before the Court is the request of Defendant Roasanne McHenry to waive attendance at her initial appearance set for July 2, 2024, or in the alternative, to be permitted to appear via Zoom teleconference. (Doc. 5). Counsel for Defendant represents that Defendant resides more than 300 miles away from the federal courthouse in Bakersfield where her initial appearance is scheduled, that she suffers from neck and spine pain and cannot sit or stand for long periods of time, and that she has neck surgery scheduled on July 19, 2024, in Sacramento and the recovery period is three to five months. Counsel separately represents that neither she nor Defendant wish to continue the matter until after Defendant's surgery due to counsel's inability to receive discovery on this matter until after Defendant's arraignment.

Notwithstanding the Court retains discretion in a misdemeanor action to permit a defendant at her request to proceed with arraignment in her absence, the Court ordinarily declines such requests

1 given the importance of a court's initial advisals of the charges, penalties' and the defendants'  
2 constitutional and staturoy rights throughout the proceedings. For instance, where a defendant claims  
3 inconvenience due to her distance from Bakersfield, the Court will consider permitting a defendant to  
4 appear from the federal district courthouse closest to the defendant's residence.

5 Here, given counsel's representations that Defendant currently suffers from physical ailments  
6 that may constrain her ability to safely travel, the Court will permit Defendant to appear via Zoom  
7 teleconference for her initial appearance. Counsel is admonished that all future proceedings save  
8 routine status conferences – such as trial, plea, and sentencing – will require in-person appearance in  
9 Bakersfield or virtual appearance from the federal district courthouse in Sacramento.

10 For the reasons set forth above, it is HEREBY ORDERED Defendant's request for a waiver  
11 of appearance pursuant to Rule 43, Fed. R. Crim. P. (Doc. 5) is DENIED.

12 And it is FURTHER ORDERED that Defendant may appear for initial appearance on July 2,  
13 2024, via Zoom videoconference. Counsel may obtain Zoom connection information from the  
14 undersigned's Courtroom Deputy Clerk.

15 IT IS SO ORDERED.

16 Dated: June 13, 2024

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UNITED STATES MAGISTRATE JUDGE